

REMARKS

This is intended as a full and complete response to the Office Action dated June 23, 2010, having a shortened statutory period for response set to expire on September 23, 2010. Applicants have attached a Petition for a One Month Extension of Time, in accordance with 37 C.F.R. §1.136, extending the statutory period until October 23, 2010. Applicants respectfully request entry and consideration of the above noted amendments and the following remarks in response to the Office Action.

CLAIM REJECTIONS:

Claims 22-27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,545,096 (*Honda*) in view of U.S. Patent No. 4,332,122 (*Williams*). The Office Action states that "method limitations are not germane to the patentability of a product in a product claim". Appellants recognize the U.S. Patent Office holds that if the claimed composition reads on a prior art composition, then it will properly draw a rejection of unpatentability, even if produced by a different process. However, Applicants respectfully submit that the blow molding recitation in the pending claims is not merely a method limitation. As known to one skilled in the art, the method of forming polymer articles directly determines both the type of article formed and the properties thereof. Accordingly, articles formed from processes other than blow molding would necessarily be different and have different properties from those claimed.

Further, the Office Action states that if "blow molding provides structural differences from Honda than those structural differences should be claimed". Applicants respectfully submit that such differences are claimed by the recitation of blow molding, as known in the art.

However, Applicants further assert that *Honda* teaches forming a film from a blend of three polymers, wherein 15-45 wt.% of the blend is a low density polyethylene (*i.e.*, a density of less than 0.91 g/cm³). Accordingly, Applicants respectfully submit that *Honda* does not teach, show or suggest the features of the amended claims. Specifically, *Honda* does not teach, show or suggest a parison formed from a single polymer consisting essentially of the claimed polymer.

Further, the Office Action asserts that *Honda* discloses a single polymer. However, on column 2, lines 43-47, it is written that when medical vessels are made from this kind of polymer (M-LLDPE), the heat resistance of the vessels is not sufficient resulting in frequent deformation due to heat when the vessels are sterilized at 115°C. In contrast, the pending claims recite that the pouch made of a metallocene catalyzed polyethylene retains its integrity at a sterilization temperature of 118°C. This is not the case for the M-LLDPE to which *Honda* refers to. As a result, *Honda* combines three polyethylenes having different properties. Accordingly, *Honda* clearly teaches away from the features of the present claims and that addition of the other polymers affects the basic and novel characteristics of the film.

Moreover, in *Honda's* document, one can see that the comparative example 1 made of only a metallocene polyethylene having a density 0.930 (*see*, table 1, column 6) shows a very low transparency after sterilization at 115°C (*see*, table 2, comparative example 1, transparency: 41.0). Accordingly, *Honda* does not disclose a squeezable liquid fill pouch made of a single polymer which can be sterilized at a temperature of at least 118°C and which retains a transmittance (transparency) of at least 95%, as claimed.

Williams does not supply such missing limitations. *Williams* teaches a liquid which is sterilized in a dispenser or a container by autoclaving at elevated temperature (column 6, lines 1-4). Appropriate autoclavable containers include those constructed of heat resistant glass and high melting point resins such as the polyvinyl resins (polyvinyl chloride), *see*, column 5, lines 18-22. Further, column 6, lines 14-21 relates to temporary container or dispenser made of heat resistant glass, which can be autoclaved several times. By this process, the sterilized liquid can be raised to temperatures above 120°C, whereas in current commercial operations, it is difficult to safely raise the temperature above 114°C.

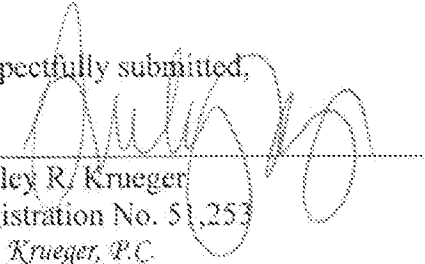
Thereafter, the sterilized liquid and the sterilized package are connected in a sterile manner to each other (column 5, lines 6-10). The packaging is made of either non-autoclavable or autoclavable material (column 5, lines 4-6). Column 6, lines 1-20 discloses that by proceeding with the wet sterilization of only the liquid and its temporary container or dispenser, it is possible to raise the liquid to temperatures higher than those presently employed. Only the temporary dispenser or condenser made of glass or the

like, such as polyvinyl chloride, is sterilized at high temperature and the packaging unit when made of autoclavable materials such as polyvinyl chloride is sterilized under autoclave (column 5, lines 45-48). *Williams* document does not at all disclose sterilization at 118°C of a liquid fill pouch made of a an ethylene bis (4,5,6,7-tetrahydro-1-indenyl) zirconium dichloride catalyzed polyethylene, said pouch retaining its integrity after sterilization.

Even if the skilled person starting from Honda's document and focused with the problem of the invention, (which is to provide a squeezable liquid fill pouch made of a single polymer which can be sterilized at a temperature of at least 118°C and which is still keeping after sterilization very good optics (transmittance (=transparency) of at least 95% and haze of less than 35%)), were to try and combine *Honda* and *Williams*, one would not arrive at the claimed subject matter because there is no indication in *Williams* that a pouch made of a single ethylene bis (4,5,6,7-tetrahydro-1-indenyl) zirconium dichloride catalysed polyethylene retains its integrity at a sterilization temperature of 118°C. Accordingly, Applicants respectfully request withdrawal of the rejection.

In conclusion, Applicants submit that the references cited in the Office Action, neither alone nor in combination, teach, show, or suggest the claimed features. Having addressed all issues set out in the Office Action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request the same.

Respectfully submitted,



Tenley R. Krueger
Registration No. 51,253
T.R. Krueger, P.C.
P.O. Box 16356
Sugar Land, Texas 77496
Telephone: 281-778-8934
Facsimile: 281-778-8937
Attorney for Applicant(s)